

# 52:27H-87.1

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005 **CHAPTER:** 374

**NJSA:** 52:27H-87.1 (Extends eligibility for sales and use tax exemption of energy and utility service purchases by certain manufacturing-intensive businesses in Urban Enterprise Zones in certain counties)

**BILL NO:** A3484 (Substituted for S2358)

**SPONSOR(S):** Greenwald and others

**DATE INTRODUCED:** November 4, 2004

**COMMITTEE:** **ASSEMBLY:** Commerce and Economic Development; Appropriations

**SENATE:** Budget and Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** January 9, 2006

**SENATE:** January 9, 2006

**DATE OF APPROVAL:** January 12, 2006

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (2nd reprint enacted)

### A3484

**[SPONSOR'S STATEMENT:](#)** (Begins on page 3 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes [2-7-2005 \(Comm\)](#)  
[6-9-2005 \(Approp\)](#)

**[SENATE:](#)** [Yes](#)

**[FLOOR AMENDMENT STATEMENT:](#)** [Yes](#)

**LEGISLATIVE FISCAL ESTIMATE:** Yes [4-8-2005](#)  
[3-1-2006](#)

### S2358

**[SPONSOR'S STATEMENT:](#)** (Begins on page 3 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

**SENATE:** Yes [6-16-2005 \(Econ.G\)](#)  
[6-29-2005 \(B & A\)](#)

**FLOOR AMENDMENT STATEMENT:** No

**[LEGISLATIVE FISCAL ESTIMATE:](#)** [Yes](#)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

IS 3/14/08

P.L. 2005, CHAPTER 374, *approved January 12, 2006*  
Assembly, No. 3484 (*Second Reprint*)

1 **AN ACT** extending the eligibility for the sales and use tax exemption  
2 of energy and utility service purchases by certain manufacturing-  
3 intensive businesses in Urban Enterprise Zones and <sup>2</sup>certain  
4 counties with reduced sales tax and<sup>2</sup> amending P.L.2004, c.65.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. Section 23 of P.L.2004, c.65 (C.52:27H-87.1) is amended to  
10 read as follows:

11 23. a. Retail sales of energy and utility service to:

12 (1) a qualified business [that employs at least 500 people] <sup>1</sup>that  
13 employs at least 250 people<sup>1</sup> within an enterprise zone[,]<sup>1</sup>,<sup>1</sup> <sup>1</sup>[of  
14 whose personnel within that enterprise zone]<sup>1</sup> at least 50% [of  
15 whom]<sup>1</sup>of whom<sup>1</sup> are directly employed in a manufacturing process,  
16 for the exclusive use or consumption of such business within an  
17 enterprise zone, and

18 (2) a group of two or more persons: (a) each of which is a qualified  
19 business that are all located within a single redevelopment area  
20 adopted pursuant to the "Local Redevelopment and Housing Law,"  
21 P.L.1992, c.79 (C.40A:12A-1 et seq.); (b) that collectively employ [at  
22 least 500 people within an enterprise zone,] <sup>1</sup>at least 250 people  
23 within an enterprise zone,<sup>1</sup> at least 50% of <sup>1</sup>[their personnel within an  
24 enterprise zone]<sup>1</sup> [whom are] <sup>1</sup>whom are<sup>1</sup> directly [employed]  
25 <sup>1</sup>employed<sup>1</sup> in a manufacturing process; (c) are each engaged in a  
26 vertically integrated business, evidenced by the manufacture and  
27 distribution of a product or family of products that, when taken  
28 together, are primarily used, packaged and sold as a single product;  
29 and (d) collectively use the energy and utility service for the exclusive  
30 use or consumption of each of the persons that comprise a group  
31 within an enterprise zone;  
32 are exempt from the taxes imposed under the "Sales and Use Tax  
33 Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

34 A qualified business will continue to be subject to applicable Board  
35 of Public Utilities tariff regulations except that its bills from utility  
36 companies and third party suppliers for energy and utility service shall  
37 not include charges for sales and use tax.

38 b. A business that meets the requirements of subsection a. of this  
39 section shall not be allowed the exemption granted pursuant to this

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SBA committee amendments adopted June 27, 2005.

<sup>2</sup> Assembly floor amendments adopted January 9, 2006.

1 section until it has complied with such requirements for obtaining the  
2 exemption as may be provided pursuant to P.L.1983, c.303  
3 (C.52:27H-60 et seq.) and P.L.1966, c.30 (C.54:32B-1 et seq.). The  
4 Chief Executive Officer and Secretary of the Commerce and Economic  
5 Growth Commission shall provide prompt notice to the President of  
6 the Board of Public Utilities and to the Director of the Division of  
7 Taxation in the Department of the Treasury, of a qualified business  
8 that has qualified for the exemption under this subsection, shall  
9 provide the president and the director an annual list of all businesses  
10 that qualify.

11 <sup>2</sup>c. (1) Retail sales of energy and utility service to a business  
12 facility located within a county that is designated for the 50% tax  
13 exemption under section 1 of P.L.1993, c.373 (C.54:32B-8.45) are  
14 exempt from the taxes imposed under the "Sales and Use Tax Act,"  
15 P.L.1966, c.30 (C.54:32B-1 et seq.); provided that the business  
16 certifies that it employs at least 50 people at that facility, at least 50%  
17 of whom are directly employed in a manufacturing process, and  
18 provided that the energy and utility services are consumed exclusively  
19 at that facility.

20 (2) A business facility that meets the requirements of paragraph (1)  
21 of this subsection may file an application for the energy and utility  
22 service sales tax exemption with the Chief Executive Officer and  
23 Secretary of the Commerce, Economic Growth and Tourism  
24 Commission, who shall promulgate regulations and forms for that  
25 purpose. The Chief Executive Officer and Secretary of the Commerce,  
26 Economic Growth and Tourism Commission shall process an  
27 application submitted under this paragraph within 20 business days of  
28 receipt thereof. An exemption shall commence for a business upon  
29 notice of approval of its application and shall expire for any year in  
30 which the business fails to meet the requirements of paragraph (1) of  
31 this subsection. Upon approval, the Chief Executive Officer and  
32 Secretary of the Commerce, Economic Growth and Tourism  
33 Commission shall provide prompt notice to the applicant and also shall  
34 provide prompt notice to the President of the Board of Public Utilities  
35 and to the Director of the Division of Taxation in the Department of  
36 the Treasury. The Chief Executive Officer and Secretary of the  
37 Commerce, Economic Growth and Tourism Commission also shall  
38 provide the president and the director with an annual list of all  
39 businesses that have been approved under this subsection.<sup>2</sup>

40 (cf: P.L.2004, c.65, s.23)

41

42 2. This act shall take effect immediately.

1

\_\_\_\_\_

2

3 Extends eligibility for sales and use tax exemption of energy and utility

4 service purchases by certain manufacturing-intensive businesses in

5 Urban Enterprise Zones and certain counties.

# ASSEMBLY, No. 3484

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED NOVEMBER 4, 2004

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Camden)**

**Assemblyman DOUGLAS H. FISHER**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman JOSEPH VAS**

**District 19 (Middlesex)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**Co-Sponsored by:**

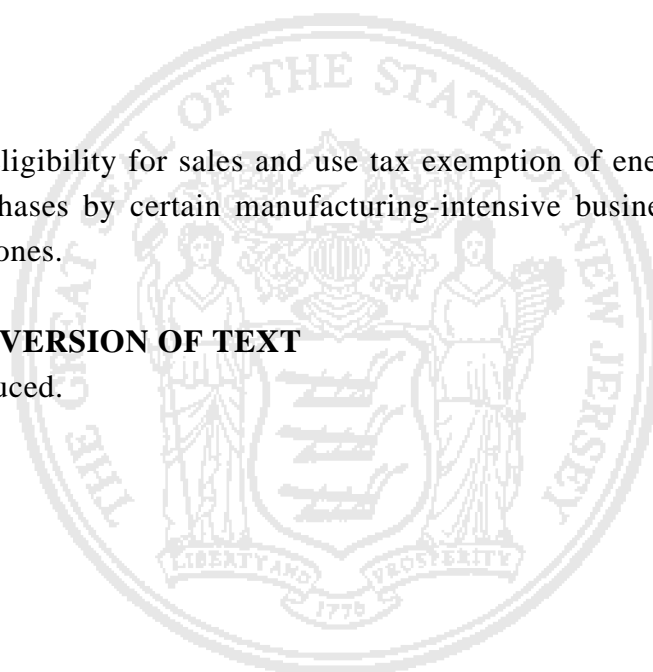
**Assemblymen Manzo and Van Drew**

**SYNOPSIS**

Extends eligibility for sales and use tax exemption of energy and utility service purchases by certain manufacturing-intensive businesses in Urban Enterprise Zones.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/28/2005)**

1 AN ACT extending the eligibility for the sales and use tax exemption  
2 of energy and utility service purchases by certain manufacturing-  
3 intensive businesses in Urban Enterprise Zones and amending  
4 P.L.2004, c.65.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. Section 23 of P.L.2004, c.65 (C.52:27H-87.1) is amended to  
10 read as follows:

11 23. a. Retail sales of energy and utility service to:

12 (1) a qualified business [that employs at least 500 people] within  
13 an enterprise zone[,] of whose personnel within that enterprise zone  
14 at least 50% [of whom] are directly employed in a manufacturing  
15 process, for the exclusive use or consumption of such business within  
16 an enterprise zone, and

17 (2) a group of two or more persons: (a) each of which is a qualified  
18 business that are all located within a single redevelopment area  
19 adopted pursuant to the "Local Redevelopment and Housing Law,"  
20 P.L.1992, c.79 (C.40A:12A-1 et seq.); (b) that collectively employ [at  
21 least 500 people within an enterprise zone,] at least 50% of their  
22 personnel within an enterprise zone [whom are] directly [employed]  
23 in a manufacturing process; (c) are each engaged in a vertically  
24 integrated business, evidenced by the manufacture and distribution of  
25 a product or family of products that, when taken together, are  
26 primarily used, packaged and sold as a single product; and (d)  
27 collectively use the energy and utility service for the exclusive use or  
28 consumption of each of the persons that comprise a group within an  
29 enterprise zone;  
30 are exempt from the taxes imposed under the "Sales and Use Tax  
31 Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

32 A qualified business will continue to be subject to applicable Board  
33 of Public Utilities tariff regulations except that its bills from utility  
34 companies and third party suppliers for energy and utility service shall  
35 not include charges for sales and use tax.

36 b. A business that meets the requirements of subsection a. of this  
37 section shall not be allowed the exemption granted pursuant to this  
38 section until it has complied with such requirements for obtaining the  
39 exemption as may be provided pursuant to P.L.1983, c.303  
40 (C.52:27H-60 et seq.) and P.L.1966, c.30 (C.54:32B-1 et seq.). The  
41 Chief Executive Officer and Secretary of the Commerce and Economic  
42 Growth Commission shall provide prompt notice to the President of

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 the Board of Public Utilities and to the Director of the Division of  
2 Taxation in the Department of the Treasury, of a qualified business  
3 that has qualified for the exemption under this subsection, shall  
4 provide the president and the director an annual list of all businesses  
5 that qualify.

6 (cf: P.L.2004, c.65, s.23)

7

8 2. This act shall take effect immediately.

9

10

11

#### STATEMENT

12

13 This bill allows all manufacturing-intensive qualified businesses  
14 located in Urban Enterprise Zones (UEZs) to claim a sales and use tax  
15 exemption for their energy and utility service purchases. Currently,  
16 the State reserves the exemption only to larger manufacturing-  
17 intensive qualified businesses situated within such zones.

18 Under a recently enacted incentive, the State extended to qualified  
19 businesses or vertically integrated combinations of qualified businesses  
20 manufacturing a single product within an UEZ, a sales and use tax  
21 exemption for its energy and utility service purchases if:

22 1. at least 500 persons are employed by the business within an UEZ,

23 2. at least 50 percent of its UEZ staff work in manufacturing,

24 3. the business consumes the energy and utility service exclusively  
25 on its UEZ premises, and

26 4. the business satisfies the definition of a "qualified business" under  
27 the "New Jersey Urban Enterprise Zones Act."

28 This bill revokes the restriction that a qualified business within an  
29 UEZ must have at least 500 employees to qualify for the exemption.

30 The other requirements remain intact.



ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3484**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 7, 2005

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 3484.

Assembly Bill No. 3484 allows all manufacturing-intensive qualified businesses located in Urban Enterprise Zones (UEZs) to claim a sales and use tax exemption for their energy and utility service purchases. Currently, the State reserves the exemption only to larger manufacturing-intensive qualified businesses situated within such zones.

Under a recently enacted incentive, the State extended to qualified businesses or vertically integrated combinations of qualified businesses manufacturing a single product within an UEZ, a sales and use tax exemption for its energy and utility service purchases if:

1. at least 500 persons are employed by the business within an UEZ,
2. at least 50 percent of its UEZ staff work in manufacturing,
3. the business consumes the energy and utility service exclusively on its UEZ premises, and
4. the business satisfies the definition of a "qualified business" under the "New Jersey Urban Enterprise Zones Act."

This bill revokes the restriction that a qualified business within an UEZ must have at least 500 employees to qualify for the exemption. The other requirements remain intact.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 3484

# STATE OF NEW JERSEY

DATED: JUNE 9, 2005

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3484.

Assembly Bill No. 3484 allows all manufacturing-intensive qualified businesses located in Urban Enterprise Zones (UEZs) to claim a sales and use tax exemption for their energy and utility service purchases. Currently, the State restricts the exemption to larger manufacturing-intensive qualified businesses situated in UEZs.

Under a recently enacted incentive, the State extended to qualified businesses or vertically integrated combinations of qualified businesses manufacturing a single product within an UEZ, a sales and use tax exemption for its energy and utility service purchases if:

1. at least 500 persons are employed by the business within an UEZ,
2. at least 50 percent of its UEZ staff work in manufacturing,
3. the business consumes the energy and utility service exclusively on its UEZ premises, and
4. the business satisfies the definition of a "qualified business" under the "New Jersey Urban Enterprise Zones Act."

This bill lifts the restriction that a qualified business within an UEZ must have at least 500 employees to qualify for the exemption. (The bill leaves the other requirements intact.)

#### FISCAL IMPACT:

The Office of Legislative Services has estimated that the sales and use tax exemption provided by this bill will reduce revenues available to the State General Fund by approximately \$8.5 million per fiscal year.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3484**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 29, 2005

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 3484, with committee amendments.

As amended, this bill expands the class of manufacturing-intensive qualified businesses located in an urban enterprise zone ("UEZ") that may claim a sales and use tax exemption for their energy and utility service purchases, by reducing the number of employees that such businesses must have to qualify for the exemption from 500 employees to 250 employees.

As amended and reported, this bill is identical to Senate Bill No. 2358, as also amended and reported.

#### COMMITTEE AMENDMENTS:

The committee amendments to the bill reduce the number of employees that a qualified business or combination of qualified businesses within an UEZ must have to qualify for the exemption, from 500 employees to 250 employees.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) projects this bill will reduce State General Fund revenues by approximately \$3 million per fiscal year. Since current law already allows a sales and use tax exemption of energy and utility service purchases by manufacturing-intensive businesses in UEZ's with *at least* 500 employees, this bill, as amended, will only incur a cost to the State with regard to such businesses with 250 and less than 500 employees. The OLS notes that the sales and use tax on energy applies to electricity and natural gas sales only. The OLS expects the bill's annual cost to remain stable in the near future, as it assumes that increases in energy prices would be offset by the persisting decline in manufacturing activity in this State.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 3484**

with Assembly Floor Amendments  
(Proposed By Assemblyman GREENWALD)

ADOPTED: JANUARY 9, 2006

These Assembly amendments provide business facilities that manufacture products in a county that is designated for the 50% sales tax exemption under N.J.S.A.54:32B-8.45, with a sales and use tax exemption for purchases of energy and utility service.

N.J.S.A.54:32B-8.45 allows a 50% sales tax reduction for most retail sales of goods in a county in which is situated an entrance to an interstate bridge or tunnel connecting New Jersey with a state that does not impose a retail sales and use tax, or imposes a retail sales and use tax at a rate at least five percentage points lower than the rate in this State. Currently, only Salem County meets this criterion.

These amendments allow qualified businesses in a county designated for the 50% sales tax exemption under N.J.S.A.54:32B-8.45 to qualify to purchase natural gas and electricity and the service of transporting or transmitting the natural gas or electricity without sales and use tax. To qualify for the exemption, the amendments require that the business, located in a county that has been designated for the 50% retail sales tax rate, would have to employ at least 50 persons, at least 50% of whom are directly employed in a manufacturing process.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 3484**  
**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

DATED: APRIL 8, 2005

**SUMMARY**

**Synopsis:** Extends eligibility for sales and use tax exemption of energy and utility service purchases by certain manufacturing-intensive businesses in Urban Enterprise Zones.

**Type of Impact:** Annual Foregone Revenue to the General Fund.

**Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2006</u></b>	<b><u>Fiscal Year 2007</u></b>	<b><u>Fiscal Year 2008</u></b>
<b>State Cost</b>	\$8,500,000	\$8,500,000	\$8,500,000

- ! The sales and use tax on energy applies only to electricity and natural gas sales.
- ! Since current law already allows a sales and use tax exemption of energy and utility service purchases by manufacturing-intensive businesses in Urban Enterprise Zones (UEZ) with at least 500 employees, this bill affects a State cost with regard to manufacturing-intensive businesses in UEZs with less than 500 employees only.
- ! According to the Office of Legislative Services (OLS) estimate, manufacturing-intensive establishments in UEZs with fewer than 500 employees accounted for approximately 1.3 percent of total 2003 New Jersey sales tax collections on electricity and natural gas purchases (\$670.4 million).

**BILL DESCRIPTION**

Assembly Bill No. 3484 of 2004 exempts energy and utility service purchases by manufacturing-intensive businesses located in UEZs from the sales and use tax, if:

1. At least 50 percent of the business' UEZ staff work in manufacturing;
2. The business consumes the energy and utility service exclusively on its UEZ premises;  
and
3. The business satisfies the definition of a "qualified business" under the "New Jersey Urban Enterprise Zones Act."

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

None received.

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS projects this bill to reduce State General Fund revenue by approximately \$8.5 million per fiscal year. Since current law already allows a sales and use tax exemption of energy and utility service purchases by manufacturing-intensive businesses in UEZ with at least 500 employees, this bill affects a State cost with regard to such businesses with less than 500 employees only. The OLS notes that the sales and use tax on energy applies to electricity and natural gas sales only.

2003 Sales Tax Paid on Energy Purchases by Manufacturing-Intensive Establishments: The Energy Information Administration within the United States Department of Energy provides data on total electricity and natural gas expenditures of New Jersey industrial end users, which were almost \$1.5 billion in 2003. The category encompasses businesses primarily engaged in agriculture, construction, manufacturing, and mining.

The OLS applies the 6 percent sales tax rate to these expenditures and reduces the result by 8.8 percent, as total annual sales tax collections from energy purchases from fiscal year 1999 to 2003 fell on average 8.8 percent below the proceeds the State should have realized in light of the Energy Information Administration data. The OLS surmises that the discrepancy results from existing exemptions, delinquencies, and the fact that Energy Information Administration data are on a calendar year basis, while total collection data are on a fiscal year basis.

According to the "1998 Manufacturing Energy Consumption Survey" by the Energy Information Administration, in the Northeast Census Region, manufacturing facilities accounted for 84.75 percent of electricity and natural gas sales to the industrial sector in 1998. The OLS thus reduces the adjusted result by 15.25 percent to obtain the estimated amount of sales tax collected on energy purchases by New Jersey manufacturing facilities, or about \$68 million in 2003.

2003 Sales Tax Paid on Energy Purchases by Manufacturing-Intensive Establishments with Fewer than 500 Employees: The Energy Information Administration reports that, in 1998, manufacturing-intensive establishments with fewer than 500 employees accounted for 57 percent of national electricity purchases by all manufacturing-intensive establishments. The OLS applies that percentage to the estimated \$68 million in 2003 sales tax collections from electricity and natural gas sales to New Jersey manufacturing establishments. It thus assesses that New Jersey manufacturing establishments with fewer than 500 employees spent about \$39 million in sales tax on electricity and natural gas in 2003.

2003 Sales Tax Paid on Energy Purchases by Manufacturing-Intensive Establishments with Fewer than 500 Employees in UEZs: In 2003, 22.15 percent of New Jerseyans lived in municipalities with a UEZ. The OLS assumes that the same share of the \$39 million sales tax proceeds from manufacturing-intensive establishments with fewer than 500 employees originate in UEZs. Hence, the OLS estimates that manufacturing-intensive establishments in UEZs with fewer than 500 employees derive an annual benefit of about \$8.5 million under this bill.

Lastly, the OLS expects the bill's annual cost to remain stable in the near future, as it assumes that increases in energy prices would be offset by the persisting decline in manufacturing activity in this State.

Section: *Revenue, Finance and Appropriations*

Analyst: *Thomas Koenig*  
*Assistant Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

**LEGISLATIVE FISCAL ESTIMATE**  
 [Second Reprint]  
**ASSEMBLY, No. 3484**  
**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

DATED: MARCH 1, 2006

**SUMMARY**

**Synopsis:** Extends eligibility for sales and use tax exemption of energy and utility service purchases by certain manufacturing-intensive businesses in Urban Enterprise Zones and certain counties.

**Type of Impact:** Annual Foregone Revenue to the General Fund.

**Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b>Fiscal Year 2006</b>	<b>Fiscal Year 2007</b>	<b>Fiscal Year 2008</b>
State Cost			
UEZs	\$1,500,000	\$3,000,000	\$3,000,000
Salem County	<u>\$700,000</u>	<u>\$1,400,000</u>	<u>\$1,400,000</u>
Total	\$2,200,000	\$4,400,000	\$4,400,000

- ! The Office of Legislative Services (OLS) cautions that in generating this estimate, it does not rely on precise energy consumption data for New Jersey manufacturing establishments. Instead, it builds its projection on a series of assumptions based on a number of related datasets.
- ! Since current law already allows a sales and use tax exemption of energy and utility service purchases by manufacturing-intensive businesses in Urban Enterprise Zones (UEZs) with at least 500 employees, the UEZ portion of this bill only effects a State cost with regard to manufacturing-intensive businesses in UEZs with at least 250 but fewer than 500 employees.
- ! The analysis assumes that all manufacturing establishments with at least 50 employees in Salem County qualify for the tax exemption and that each of them has electricity and natural gas expenditures equivalent to the Statewide averages for manufacturing businesses in the same employment size class, yet given that Salem County has only six manufacturing establishments with at least 50 employees, according to the "2003 County Business Patterns" dataset by the United States Census Bureau, it is possible that the Salem County manufacturing entities of different employment size classes are not representative of the Statewide distribution of energy purchases by similarly situated enterprises, in which event this estimate would deviate from the bill's true cost.



## **BILL DESCRIPTION**

Assembly Bill No. 3484 (2R) of 2004 exempts energy and utility service purchases by a manufacturing-intensive business from the sales and use tax, if the business meets one of the following sets of criteria:

I. it is located in an Urban Enterprise Zone (UEZ); it employs at least 250 but fewer than 500 employees at its UEZ facility, of whom at least 50 percent work in manufacturing; and it consumes the energy and utility service exclusively on its UEZ premises; or

II. it is located in a county that is designated for the 50 percent sales tax exemption under subsection a. of section 1 of P.L.1993, c.373 (C.54:32B-8.45), a condition which only Salem County is currently fulfilling; it employs at least 50 people at its Salem County facility, of whom at least 50 percent work in manufacturing; and it consumes the energy and utility service exclusively on its Salem County premises.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS projects this bill to reduce State General Fund revenue by \$2.2 million in fiscal year 2006 and \$4.4 million in each of fiscal years 2007 and 2008. The table on page 1 of this legislative fiscal estimate details which portion of this cost the agency attributes to the sales and use tax exemption for energy purchases by manufacturing-intensive businesses in I) UEZ with at least 250 but no more than 500 employees and in II) Salem County with at least 50 employees. The fiscal year 2006 estimate assumes that the bill will be in effect for the second half of the fiscal year only.

The OLS notes that the sales and use tax on energy applies only to electricity and natural gas sales and it cautions that in generating this estimate, it does not rely on precise energy consumption data for New Jersey manufacturing establishments. Instead, it builds its projection on a series of assumptions based on a number of related datasets.

2003 Sales Tax Paid on Energy Purchases by Manufacturing-Intensive Establishments in New Jersey: The Energy Information Administration (EIA) within the United States Department of Energy provides data on total electricity and natural gas expenditures of New Jersey industrial end users, which were almost \$1.5 billion in 2003. The category encompasses businesses primarily engaged in agriculture, construction, manufacturing, and mining.

The OLS applies the six percent sales tax rate to these expenditures and reduces the result by 8.8 percent, as total annual sales tax collections from energy purchases from fiscal year 1999 to 2003 fell on average 8.8 percent below the proceeds the State should have realized in light of the EIA data. The OLS surmises that the discrepancy results from existing exemptions, delinquencies, and the fact that EIA data are on a calendar year basis, while total collection data are on a fiscal year basis.

According to the "1998 Manufacturing Energy Consumption Survey" by the EIA, in the Northeast Census Region, manufacturing facilities accounted for 84.75 percent of electricity and natural gas sales to the industrial sector in 1998. The OLS thus reduces the adjusted result by 15.25 percent to obtain the estimated amount of sales tax collected on energy purchases by New Jersey manufacturing facilities, or about \$68 million in 2003, which it allocates to businesses of different employment size classes pursuant to the proportion of total 1998 nationwide electricity purchases by the manufacturing industry for which manufacturing entities of different employment size classes accounted.

2003 Sales Tax Paid on Energy Purchases by Manufacturing-Intensive Establishments with at Least 250 but Fewer than 500 Employees in UEZs: Since current law already allows a sales and use tax exemption of energy and utility service purchases by manufacturing-intensive businesses in UEZs with at least 500 employees, this bill effects a State cost with regard to such businesses with at least 250 but fewer than 500 employees only.

The EIA reports that, in 1998, manufacturing-intensive establishments with at least 250 but fewer than 500 employees accounted for 19 percent of national electricity purchases by all manufacturing-intensive establishments. The OLS applies that percentage to the estimated \$68 million in 2003 sales tax collections from electricity and natural gas sales to New Jersey manufacturing establishments and thus assesses that New Jersey manufacturing establishments with at least 250 but fewer than 500 employees spent about \$13 million in sales tax on electricity and natural gas in 2003.

The OLS notes that 22.15 percent of New Jerseyans lived in municipalities with an UEZ in 2003. The agency assumes that the same share of the \$13 million sales tax proceeds from manufacturing-intensive establishments with at least 250 but fewer than 500 employees originate in UEZs. Hence, it estimates that these establishments derive an annual benefit of about \$3 million under this bill.

Lastly, the OLS expects the bill's annual cost to remain stable in the near future, as it assumes that the persisting decline in manufacturing activity in this State would offset increases in energy prices.

2003 Sales Tax Revenue from Energy Purchases by Manufacturing-Intensive Establishments with at Least 50 Employees in Salem County: The EIA reports that, in 1998, manufacturing-intensive establishments with at least 50 employees accounted for 90.5 percent of national electricity purchases by all manufacturing-intensive establishments. The OLS applies that percentage to the estimated \$68 million in 2003 sales tax collections from electricity and natural gas sales to New Jersey manufacturing establishments and thus assesses that New Jersey manufacturing establishments with at least 50 employees spent about \$62 million in sales tax on electricity and natural gas in 2003.

Relying on the "2003 County Business Patterns" dataset by the United States Census Bureau, which provides information on the number of manufacturing-intensive establishments of different workforce sizes for Salem County and New Jersey, the OLS multiplies, for each employment size bracket, the percentage of Salem County manufacturing establishments relative to New Jersey manufacturing establishments with the amounts of estimated 2003 electricity and natural gas expenditures by New Jersey manufacturing establishments in the respective employment size class.

Summing up the results for all the different employment size classes, the OLS obtains \$1.4 million in annual sales tax payments on electricity and natural gas purchases by Salem County manufacturing businesses with at least 50 employees.

The OLS expects the bill's annual cost to remain stable in the near future, as it assumes that the persisting decline in manufacturing activity in this State would offset increases in energy prices.

Finally, the agency notes that its analysis assumes that all manufacturing establishments with at least 50 employees in Salem County qualify for the tax exemption and that each of them has electricity and natural gas expenditures equivalent to the Statewide averages for manufacturing businesses in the same employment size class, yet given that Salem County has only six manufacturing establishments with at least 50 employees, according to the "2003 County Business Patterns" dataset by the United States Census Bureau, it is possible that the Salem County manufacturing entities of different employment size classes are not representative of the Statewide distribution of energy purchases by similarly situated enterprises, in which event this estimate would deviate from the bill's true cost.

Section: *Revenue, Finance and Appropriations*

Analyst: *Thomas Koenig*  
*Associate Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

**SENATE, No. 2358**

**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

INTRODUCED FEBRUARY 28, 2005

**Sponsored by:**

**Senator NICHOLAS ASSELTA**

**District 1 (Cape May, Atlantic and Cumberland)**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Co-Sponsored by:**

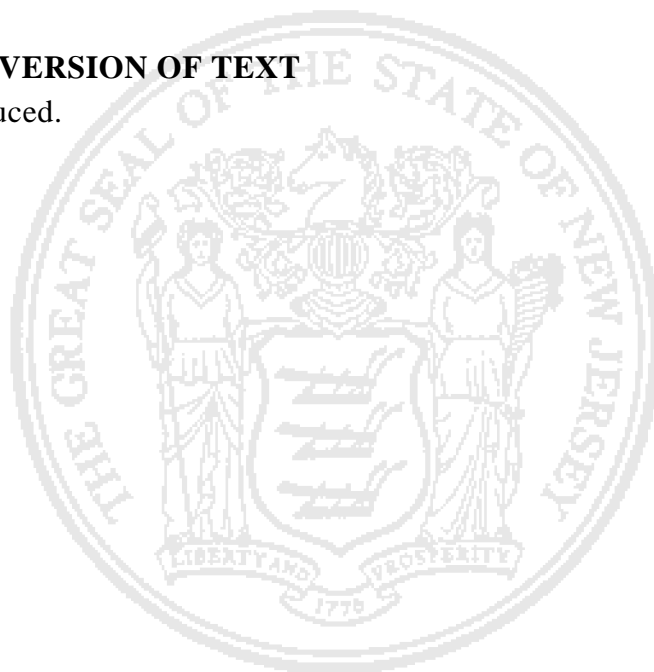
**Senators Coniglio and Sarlo**

**SYNOPSIS**

Extends eligibility for sales and use tax exemption of energy and utility service purchases by certain manufacturing-intensive businesses in Urban Enterprise Zones.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/21/2005)**

1 AN ACT extending the eligibility for the sales and use tax exemption  
2 of energy and utility service purchases by certain manufacturing-  
3 intensive businesses in Urban Enterprise Zones and amending  
4 P.L.2004, c.65.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. Section 23 of P.L.2004, c.65 (C.52:27H-87.1) is amended to  
10 read as follows:

11 23. a. Retail sales of energy and utility service to:

12 (1) a qualified business [that employs at least 500 people] within  
13 an enterprise zone[,] of whose personnel within that enterprise zone  
14 at least 50% [of whom] are directly employed in a manufacturing  
15 process, for the exclusive use or consumption of such business within  
16 an enterprise zone, and

17 (2) a group of two or more persons: (a) each of which is a qualified  
18 business that are all located within a single redevelopment area  
19 adopted pursuant to the "Local Redevelopment and Housing Law,"  
20 P.L.1992, c.79 (C.40A:12A-1 et seq.); (b) that collectively employ [at  
21 least 500 people within an enterprise zone,] at least 50% of their  
22 personnel within an enterprise zone [whom are] directly [employed]  
23 in a manufacturing process; (c) are each engaged in a vertically  
24 integrated business, evidenced by the manufacture and distribution of  
25 a product or family of products that, when taken together, are  
26 primarily used, packaged and sold as a single product; and (d)  
27 collectively use the energy and utility service for the exclusive use or  
28 consumption of each of the persons that comprise a group within an  
29 enterprise zone;

30 are exempt from the taxes imposed under the "Sales and Use Tax  
31 Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

32 A qualified business will continue to be subject to applicable Board  
33 of Public Utilities tariff regulations except that its bills from utility  
34 companies and third party suppliers for energy and utility service shall  
35 not include charges for sales and use tax.

36 b. A business that meets the requirements of subsection a. of this  
37 section shall not be allowed the exemption granted pursuant to this  
38 section until it has complied with such requirements for obtaining the  
39 exemption as may be provided pursuant to P.L.1983, c.303  
40 (C.52:27H-60 et seq.) and P.L.1966, c.30 (C.54:32B-1 et seq.). The  
41 Chief Executive Officer and Secretary of the Commerce and Economic  
42 Growth Commission shall provide prompt notice to the President of

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 the Board of Public Utilities and to the Director of the Division of  
2 Taxation in the Department of the Treasury, of a qualified business  
3 that has qualified for the exemption under this subsection, shall  
4 provide the president and the director an annual list of all businesses  
5 that qualify.

6 (cf: P.L.2004, c.65, s.23)

7

8 2. This act shall take effect immediately.

9

10

11

#### STATEMENT

12

13 This bill allows all manufacturing-intensive qualified businesses  
14 located in Urban Enterprise Zones (UEZs) to claim a sales and use tax  
15 exemption for their energy and utility service purchases. Currently,  
16 the State reserves the exemption only to larger manufacturing-  
17 intensive qualified businesses situated within such zones.

18 Under a recently enacted incentive, the State extended to qualified  
19 businesses or vertically integrated combinations of qualified businesses  
20 manufacturing a single product within an UEZ, a sales and use tax  
21 exemption for its energy and utility service purchases if:

22 1. at least 500 persons are employed by the business within an UEZ,

23 2. at least 50 percent of its UEZ staff work in manufacturing,

24 3. the business consumes the energy and utility service exclusively  
25 on its UEZ premises, and

26 4. the business satisfies the definition of a "qualified business" under  
27 the "New Jersey Urban Enterprise Zones Act."

28 This bill revokes the restriction that a qualified business within an  
29 UEZ must have at least 500 employees to qualify for the exemption.

30 The other requirements remain intact.

# SENATE ECONOMIC GROWTH COMMITTEE

## STATEMENT TO

### SENATE, No. 2358

# STATE OF NEW JERSEY

DATED: JUNE 16, 2005

The Senate Economic Growth Committee reports favorably Senate Bill No. 2358.

As reported, this bill expands the class of manufacturing-intensive qualified businesses located in an urban enterprise zone ("UEZ") that may claim a sales and use tax exemption for their energy and utility service purchases.

Under section 23 of P.L.2004, c.65 (C.52:27H-87.1), the State extended a sales and use tax exemption for energy and utility service purchases to (1) qualified businesses, and (2) vertically integrated combinations of qualified businesses manufacturing a single product within an UEZ, if:

1. at least 500 persons are employed by the business or combination of businesses within an UEZ,
2. at least 50 percent of its UEZ-based staff work in manufacturing,
3. the business or combination of businesses, or combination of businesses consumes the energy and utility service exclusively on its UEZ premises, and
4. the business, or each of the businesses, satisfies the definition of a "qualified business" under the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.).

This bill revokes the restriction that a qualified business or combination of qualified businesses within an UEZ must have at least 500 employees to qualify for the exemption. The other requirements remain intact.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2358**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 29, 2005

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2358, with committee amendments.

As amended, this bill expands the class of manufacturing-intensive qualified businesses located in an urban enterprise zone ("UEZ") that may claim a sales and use tax exemption for their energy and utility service purchases, by reducing the number of employees that such businesses must have to qualify for the exemption from 500 employees to 250 employees.

As amended and reported, this bill is identical to Assembly Bill No. 3484, as also amended and reported.

#### COMMITTEE AMENDMENTS:

The committee amendments to the bill reduce the number of employees that a qualified business or combination of qualified businesses within an UEZ must have to qualify for the exemption, from 500 employees to 250 employees.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) projects this bill will reduce State General Fund revenues by approximately \$3 million per fiscal year. Since current law already allows a sales and use tax exemption of energy and utility service purchases by manufacturing-intensive businesses in UEZ's with *at least* 500 employees, this bill, as amended, will only incur a cost to the State with regard to such businesses with 250 and less than 500 employees. The OLS notes that the sales and use tax on energy applies to electricity and natural gas sales only. The OLS expects the bill's annual cost to remain stable in the near future, as it assumes that increases in energy prices would be offset by the persisting decline in manufacturing activity in this State.



**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 2358**  
**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

DATED: MAY 19, 2005

**SUMMARY**

**Synopsis:** Extends eligibility for sales and use tax exemption of energy and utility service purchases by certain manufacturing-intensive businesses in Urban Enterprise Zones.

**Type of Impact:** Annual Foregone Revenue to the General Fund.

**Agencies Affected:** Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2006</u></b>	<b><u>Fiscal Year 2007</u></b>	<b><u>Fiscal Year 2008</u></b>
<b>State Cost</b>	\$8,500,000	\$8,500,000	\$8,500,000

- ! The sales and use tax on energy applies only to electricity and natural gas sales.
- ! Since current law already allows a sales and use tax exemption of energy and utility service purchases by manufacturing-intensive businesses in Urban Enterprise Zones (UEZ) with at least 500 employees, this bill effects a State cost with regard to manufacturing-intensive businesses in UEZs with less than 500 employees only.
- ! According to the Office of Legislative Services (OLS) estimate, manufacturing-intensive establishments in UEZs with fewer than 500 employees accounted for approximately 1.3 percent of total 2003 New Jersey sales tax collections on electricity and natural gas purchases (\$670.4 million).

**BILL DESCRIPTION**

Senate Bill No. 2358 of 2005 exempts energy and utility service purchases by manufacturing-intensive businesses located in UEZs from the sales and use tax, if:

1. at least 50 percent of the business' UEZ staff work in manufacturing,
2. the business consumes the energy and utility service exclusively on its UEZ premises, and
3. the business satisfies the definition of a "qualified business" under the "New Jersey Urban Enterprise Zones Act."

## FISCAL ANALYSIS

### *EXECUTIVE BRANCH*

None received.

### *OFFICE OF LEGISLATIVE SERVICES*

The OLS projects this bill to reduce State General Fund revenue by approximately \$8.5 million per fiscal year. Since current law already allows a sales and use tax exemption of energy and utility service purchases by manufacturing-intensive businesses in UEZ with at least 500 employees, this bill effects a State cost with regard to such businesses with less than 500 employees only. The OLS notes that the sales and use tax on energy applies to electricity and natural gas sales only.

2003 Sales Tax Paid on Energy Purchases by Manufacturing-Intensive Establishments: The Energy Information Administration within the United States Department of Energy provides data on total electricity and natural gas expenditures of New Jersey industrial end users, which were almost \$1.5 billion in 2003. The category encompasses businesses primarily engaged in agriculture, construction, manufacturing, and mining.

The OLS applies the six percent sales tax rate to these expenditures and reduces the result by 8.8 percent, as total annual sales tax collections from energy purchases from fiscal year 1999 to 2003 fell on average 8.8 percent below the proceeds the State should have realized in light of the EIA data. The OLS surmises that the discrepancy results from existing exemptions, delinquencies, and the fact that Energy Information Administration data are on a calendar year basis, while total collection data are on a fiscal year basis.

According to the "1998 Manufacturing Energy Consumption Survey" by the Energy Information Administration, in the Northeast Census Region, manufacturing facilities accounted for 84.75 percent of electricity and natural gas sales to the industrial sector in 1998. The OLS thus reduces the adjusted result by 15.25 percent to obtain the estimated amount of sales tax collected on energy purchases by New Jersey manufacturing facilities, or about \$68 million in 2003.

2003 Sales Tax Paid on Energy Purchases by Manufacturing-Intensive Establishments with Fewer than 500 Employees: The Energy Information Administration reports that, in 1998, manufacturing-intensive establishments with fewer than 500 employees accounted for 57 percent of national electricity purchases by all manufacturing-intensive establishments. The OLS applies that percentage to the estimated \$68 million in 2003 sales tax collections from electricity and natural gas sales to New Jersey manufacturing establishments. It thus assumes that New Jersey manufacturing establishments with fewer than 500 employees spent about \$39 million in sales tax on electricity and natural gas in 2003.

2003 Sales Tax Paid on Energy Purchases by Manufacturing-Intensive Establishments with Fewer than 500 Employees in UEZs: In 2003, 22.15 percent of New Jerseyans lived in municipalities with an UEZ. The OLS assumes that the same share of the \$39 million sales tax proceeds from manufacturing-intensive establishments with fewer than 500 employees originate in UEZs. Hence, the OLS estimates that manufacturing-intensive establishments in UEZs with fewer than 500 employees derive an annual benefit of about \$8.5 million under this bill.

Lastly, the OLS expects the bill's annual cost to remain stable in the near future, as it assumes that increases in energy prices would be offset by the persisting decline in manufacturing activity

in this State.

Section: *Revenue, Finance and Appropriations*

Analyst: *Thomas Koenig*  
*Associate Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.